

NOTICE OF INTENT

Department of Environmental Quality
Office of Environmental Assessment
Environmental Planning Division

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapter 49.Appendix E (Log #HW068P).

DuPont Dow Elastomers L.L.C. has petitioned to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste, known as Dynawave Scrubber Effluent, resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, Louisiana. LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste. The basis and rationale for this proposed rule are to grant the delisting petition based on the supporting documentation found in the 17-volume set dated and received on December 15, 1998, titled "Hazardous Waste Delisting Petition for Dynawave Scrubber Effluent" by DuPont Dow Elastomers L.L.C. of LaPlace, Louisiana. DuPont, the generator of the waste stream, has demonstrated through extensive sampling and analyses that this material, the Dynawave Scrubber Effluent, does not exhibit the hazardous properties that originally justified its listing as a hazardous waste.

This proposed rule meets an exception listed in R.S. 30:2019 (D) (3) and R.S.49:953 (G) (3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on September 27, 1999, at 1:30 p.m. in the Trotter Building, Second Floor, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by HW068P. Such comments must be received no later than October 4, 1999, at 4:30 p.m., and should be sent to Patsy Deaville, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0486. Copies of this proposed regulation can be purchased at the above referenced address. Contact the Regulation Development Section at (225) 765-0399 for pricing information. Check or money order is required in advance for each copy of HW068P.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.
Assistant Secretary

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

Appendix E - Wastes Excluded under LAC 33:V.105.M

Table E1 - Wastes Excluded

Facility	Address	Waste Description
DuPont Dow Elastomers L.L.C.	LaPlace, LA	<p><u>Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are:</u></p> <p><u>HCl Feed - D001, D002, and D007; Ponchartrain CD Heels - D001 and F005; Waste Organics - D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge - D001, D007, and F005; Isom Purge - D001, D002, and F005; and Louisville CD Heels - D001, D007, D039, F001, F002, F003, and F005. DuPont Dow Elastomers must implement a sampling program that meets the following conditions for the exclusion to be valid:</u></p>

Facility	Address	Waste Description
		<p><u>(1) - Testing:</u></p> <p><u>Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.</u></p> <p><u>(1)(A) - Inorganic Testing:</u></p> <p><u>During the first 12 months of this exclusion, DuPont Dow must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. DuPont Dow must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and DuPont Dow concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in</u></p>

Facility	Address	Waste Description
		<p><u>condition (3)(A), then DuPont Dow may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.</u></p> <p><u>(1)(B) - Subsequent Inorganic Testing:</u></p> <p><u>Following concurrence by the department, DuPont Dow may substitute the following testing conditions for those in condition (1)(A). DuPont Dow must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. DuPont Dow may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.</u></p>

Facility	Address	Waste Description
		<p><u>(1)(C) - Organic Testing:</u></p> <p><u>During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below.</u></p> <p><u>After completing this initial sampling, DuPont Dow shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.</u></p> <p><u>(1)(D) - Dioxins and Furans Testing:</u></p> <p><u>During the first 30 days of this exclusion, DuPont Dow must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, DuPont Dow shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.</u></p>

Facility	Address	Waste Description
		<p><u>(2) - Waste Handling:</u></p> <p><u>Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the DuPont Dow plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded</u></p>

Facility	Address	Waste Description
		<p><u>the delisting levels. If the repeat analysis is less than the delisting levels, then DuPont Dow shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days DuPont Dow shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify DuPont Dow of the corrective action needed. DuPont Dow shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, DuPont Dow may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the</u></p>

Facility	Address	Waste Description
		<p><u>exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies DuPont Dow in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.</u></p> <p><u>(3) - Delisting Levels:</u></p> <p><u>The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection.</u></p> <p><u>Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E.</u></p> <p><u>Concentrations in the extract must be less than the following levels (all units are milligrams per liter):</u></p> <p><u>(3)(A) - Inorganic Constituents:</u></p> <p><u>Chromium - 2.0; Nickel - 2.0; Zinc - 200.</u></p> <p><u>(3)(B) - Organic Constituents:</u></p> <p><u>Acetone - 80; Chlorobenzene - 2.0; Chloroform - 0.2; Chloroprene - 14; Ethylbenzene - 14;</u></p>

Facility	Address	Waste Description
		<p><u>Methylene Chloride - 0.1; Styrene - 2.0; Toluene - 20; Xylenes - 200.</u></p> <p><u>(3)(C) - Dioxins and Furans</u></p> <p><u>The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290 - Monitor only.</u></p> <p><u>(4) - Changes in Operating Conditions or Feed Streams:</u></p> <p><u>If DuPont Dow either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to their combustion permit, DuPont Dow must notify the department in writing.</u></p> <p><u>Following receipt of written acknowledgement by the department, DuPont Dow must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR part 264, appendix IX - Ground Water Monitoring List (LAC 33:V.3325). If the results of the appendix IX analyses identify no new hazardous constituents,</u></p>

Facility	Address	Waste Description
		<p><u>then DuPont Dow must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. DuPont Dow may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.</u></p> <p><u>(5) - Data Submittal:</u></p> <p><u>DuPont Dow must notify the department in writing at least two weeks prior to initiating condition (1)(A). All data obtained to fulfill condition (1) must be submitted to the Assistant Secretary of the Office of Environmental Services, LDEQ, 7290 Bluebonnet Blvd, Baton Rouge, LA 70810, within 60 days after each sampling event.</u></p>

Facility	Address	Waste Description
		<p><u>Records of operating conditions and analytical data from condition (1) must be compiled, summarized, and maintained on site for a minimum of three years. These records and data must be furnished upon request by the department and made available for inspection. Failure to submit the required data within the specified time period or failure to maintain the required records on-site for the specified time shall be considered by the department, at its discretion, sufficient basis to revoke the exclusion. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted:</u></p> <p><u>“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the</u></p>

Facility	Address	Waste Description
		<p><u>information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. In the event that any of this information is determined by the department, in its sole discretion, to be false, inaccurate, or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had been in effect or to the extent directed by the department and that the company will be liable for any actions taken in contravention of the company's environmental obligations under the Louisiana Environmental Quality Act premised upon the company's reliance on the void exclusion."</u></p>
<p style="text-align: center;">* * *</p> <p style="text-align: center;">[See Prior Text in Marathon Oil Co.]</p>		

PROPOSED RULE/AUGUST 20, 1999

HW068P

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), amended LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:**

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Judith A. Schuerman Dept.: Environmental Quality

Phone: 765-0272 Office: Environmental Assessment

Return
Address: 7290 Bluebonnet Blvd. Rule
Title: DuPont Dow Elastomers
Delisting (LAC 33:V.Chapter
49, Appendix E)

Baton Rouge, LA 70810

Date Rule
Effective: Upon Promulgation

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DuPont Dow Elastomers L.L.C. is requesting delisting of its Dynawave Scrubber Effluent. Approving or disapproving this delisting will not affect state agency staffing levels. There are no costs or savings associated with implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state will collect \$6,390/yr less in hazardous waste disposal tax revenue when the Dynawave Scrubber Effluent is delisted.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

DuPont Dow Elastomers L.L.C. will pay \$6,390/yr less in Hazardous Waste Disposal Tax but will pay approximately \$1,000/yr more in analytical lab costs. The result is a net saving of \$5,390/yr for DuPont. The lab that performs DuPont Dow's testing will receive \$1,000/yr more because the delisting conditions require additional analytical testing. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effects on competition and employment are negligible.

Signature of Agency Head or Designee

James H. Brent, Ph.D.
Assistant Secretary

Typed Name and Title of Agency Head
or Designee

Date of Signature

Legislative Fiscal Officer or
Designee

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

DuPont Dow Elastomers L.L.C. is petitioning to exclude from the hazardous waste regulations (delist) a derived-from hazardous waste (known as Dynawave Scrubber Effluent) resulting from the combustion of non-specific source (i.e., spent solvent) listed hazardous wastes in a halogen acid furnace to produce aqueous hydrochloric acid. This waste stream is generated at DuPont's Ponchartrain Site in LaPlace, LA.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

LAC 33:V.105.M allows a hazardous waste generator to petition the department for this kind of rulemaking when a listed hazardous waste does not meet any of the criteria that justified the original listing. Based on extensive testing, the department has determined that the nature of this material does not warrant retaining this material as a hazardous waste.

- C. Compliance with Act II of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, the proposed rule will not result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ No. If no, provide justification as to why this rule change should be published at this time.

This is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED.

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 99-00	FY 00-01	FY 01-02
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

No costs or savings to state agencies will result from this proposed action.

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Approving or disapproving this delisting will not affect state agency staffing levels. There are no costs or savings associated with implementation of this rule.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 99-00	FY 00-01	FY 01-02
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

No funds are needed to implement this rule.

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are needed to implement this rule.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact of the proposed action on local governmental units.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS.

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 99-00	FY 00-01	FY 01-02
STATE GENERAL FUND			
AGENCY SELF-GENERATED		See below	
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	(-)\$6,390	(-)\$6,390	(-)\$6,390

* Specify the particular fund being impacted.

Revenue impacts are minimal. R.S. 30:2205(A)(1) provides that funds generated by the hazardous waste tax under the provisions of Chapter 7-A of Subtitle II of Title 47 "...and the sums recovered through all judgements, settlements, assessments of civil or criminal penalties, fees and oversight costs" are to be paid into the Hazardous Waste Site Cleanup Fund until the fund balance reaches \$6 million, and at such time the treasurer is to pay remaining sums into the Environmental Trust Fund. Currently, DuPont pays about \$62,000/yr in hazardous waste tax. When the delisting is approved, the state revenue tax collection will decrease by \$6,390. This figure was reached by multiplying the 42,600,000 pounds of annual hazardous waste generated by this stream times 1% (the dry weight ton conversion for underground injection) times 1 ton per 2000 pounds times \$30 per ton for on site disposal.

$$(42,600,000 \text{ lbs.})(0.01)(1 \text{ ton}/2000 \text{ lbs.})(\$30/\text{ton}) = \$6,390.$$

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

Delisting the scrubber effluent means the waste will no longer be regulated as hazardous and, therefore, will no longer be subject to the hazardous waste disposal tax.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

DuPont Dow Elastomers L.L.C. will pay \$6,390/yr less in Hazardous Waste Disposal Tax, but will pay approximately \$1,000/yr more in analytical lab costs. The result is a net saving of \$5,390/yr for DuPont. The delisting of this scrubber effluent will not relieve the company from any liability for these wastes under federal or state law.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule change to these groups.

DuPont Dow will save about \$5,390/year when this delisting is implemented.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The effects on competition and employment are negligible.